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CH. 12 GUAM ACADEMY CHARTER SCHOOLS ACT OF 2009

CHAPTER 12
GUAM ACADEMY CHARTER SCHOOLS ACT OF 2009

SOURCE: This entire Chapter was added by P.L. 29-140:1 (Jan. 30, 2009).

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. The passage of P.L. 30-050:2 (July 14, 2009) reverted the name to the Department of Education.

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§ 12101. Short Title.

This Chapter shall be known and may be cited as the “Guam Academy Charter School Act of 2009”.

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§ 12102. Purpose.

The Guam Academy Charter School Act of 2009 is enacted to provide opportunities for teachers, parents, guardians, students and community members to establish and maintain schools that operate independently from the Department of Education as a method to:

- (a) improve student learning;
- (b) increase learning opportunities for all students, with special emphasis on expanded learning experiences;
- (c) encourage the use of different and innovative teaching methods;
- (d) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- (e) provide parents, guardians and students with expanded choices in the types of educational opportunities that are available within the public school system; and
- (f) hold the schools established under this Chapter accountable for meeting measurable student educational standards.

§ 12103. Definitions.

- (a) Board means the Guam Education Policy Board;
- (b) Academy Charter School means schools acknowledged as Charter schools by the Guam Academy Charter Schools Council under Chapter 12 of Title 17 GCA;
- (c) Chamorro Language Immersion Program is a method of teaching the Chamorro language. Using the Chamorro language as the teaching tool, surrounding or immersing students in the Chamorro language in class activities such as math, science, social studies, history, and other class subjects.
- (d) Council means the authorizing chartering entity known as the Guam Academy Charter Schools Council.
- (e) Eligible applicant means an individual, a group of individuals, teachers, parents, guardians or a non-profit

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organization authorized under the laws of Guam to do business;
and

(f) Trustees means the Board of Trustees, the governing structure of an Academy Charter School as set forth in the Academy's Charter.

(g) Appeals Board means the ad hoc Appeals Board composed of the Public Auditor, the Attorney General, the Director of the Department of Administration, the Director of the Department of Revenue and Taxation, or their respective designees, and one (1) member of the general public appointed by and to serve at the pleasure of *I Maga'hågan Guåhan*, with a Bachelor's degree or higher and a background in the education field for a minimum of fifteen (15) years. **SOURCE:** Added by P.L. 30-176:2 (July 16, 2010). Subsection (g) amended by P.L. 35-029:2 (July 19, 2019).

§ 12104. Process for Filing Charter Petitions.

(a) Private, religious schools shall be eligible to apply to convert to an Academy Charter School under this Chapter.

(b) Existing public or private school. An eligible applicant seeking to convert a public or private school into an Academy Charter School:

(1) shall prepare a petition to establish an Academy Charter School that meets the requirements of § 12105 of this Chapter;

(2) shall provide a copy of the petition to:

(A) the parents and guardians of minor students attending the existing public or private school;

(B) adult students attending the existing public or private school;

(C) employees of the existing public or private school;

(D) parents and guardians of minor students who attend the school grade immediately lower than the first (1st) school grade which is served by the public or private school which is the subject of the conversion

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petition; and

(E) each Mayor which represents an area within the attendance area of the public or private school which is the subject of the conversion petition; and

(3) shall file the petition with the Council for approval after the petition:

(A) is signed by not less than sixty percent (60%) of the sum of:

(i) the total number of parents and guardians of minor students attending the public or private school; and

(ii) the total number of adult students attending the public or private school; and

(iii) the total number of full-time teachers currently assigned to the public or employed by the private school.

(B) New School. An eligible applicant seeking to establish an Academy Charter School, but not converting an existing public or private school, shall file with the Council for approval a petition to establish an Academy Charter School that meets the requirements of § 12105 of this Chapter.

(C) Limitations on Multiple Petitions. An eligible applicant may not file more than one (1) petition to establish an Academy Charter School during a calendar year.

(D) A petition to establish an Academy Charter School, or to convert a public or private school, is a public document.

SOURCE: Added by P.L. 29-140:1 (Jan. 30, 2009). Amended by P.L. 37-030:2 (July 25, 2023).

CROSS REFERENCE: 17 GCA §12105

§ 12105. Contents of Petition.

A petition under § 12104 of this Chapter to establish an Academy Charter School shall include the following:

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(a) a statement defining the mission and goals of the proposed Academy Charter School and the manner in which the Academy Charter School will conduct any district-wide assessments required by the Department of Education;

(b) a statement of the need for the proposed Academy Charter School;

(c) a description of the proposed instructional goals and methods for the proposed Academy Charter School, which shall include, at a minimum:

(1) the area of focus of the proposed Academy Charter School, such as mathematics, science, the fine arts, language, technology, agriculture, vocational training, Chamorro language immersion program, high school academy, information technology or criminal justice, if the Academy Charter School will have such a focus;

(2) the methods that will be used, including classroom technology, to provide students with the knowledge, proficiency, and skills needed:

(A) to become nationally and internationally competitive students and educated individuals in the Twenty First (21st) century; and

(B) to perform competitively on any district-wide assessments; and

(3) the methods that will be used to improve student self-motivation, classroom instruction, and learning for all students;

(d) a description of the scope and size of the proposed Academy Charter School's program that will enable students to successfully achieve the goals established by the Academy Charter School, including, the grade levels to be served by the Academy Charter School and the projected and maximum enrollment of each grade level;

(e) a description of the plan for evaluating student academic achievement at the proposed Academy Charter

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School and the procedures for remedial action that will be used by the Academy Charter School when the academic achievement of a student falls below the expectations of the Academy Charter School;

(f) an operating budget for the first two (2) years of the proposed Academy Charter School that is based on anticipated enrollment;

(g) a description of the proposed rules and policies for governance and operation of the proposed Academy Charter School;

(h) a description of the method for conducting annual audits of the financial, administrative, and programmatic operations of the proposed Academy Charter School;

(i) an identification of a facility for the proposed Academy Charter School, including a description of the site where the school will be located;

(j) the names and addresses of the members of the proposed interim Board of Trustees and the procedures for selecting trustees;

(k) a description of the student enrollment, admission process, suspension, expulsion, and other disciplinary policies and procedures of the proposed Academy Charter School, and the criteria for making decisions in such areas;

(l) a description of the procedures the proposed Academy Charter School plans to follow to ensure the health and safety of students, employees, and guests of the school and to comply with applicable health and safety laws, and all applicable civil rights statutes and regulations of the Federal Government and the government of Guam;

(m) an explanation of the qualifications that will be required of employees of the proposed Academy Charter School;

(n) a description of how parents, guardians, teachers, and other members of the community have been involved in the design and will continue to be involved in the

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implementation of the proposed Academy Charter School:

(o) a description of how parents, guardians, teachers and staff will be provided an orientation and other training to ensure their effective participation in the operation of the proposed Academy Charter School;

(p) an assurance the proposed Academy Charter School will seek, obtain, and maintain accreditation from an accrediting body deemed appropriate by the Council;

(q) an explanation of the relationship that will exist between the Academy Charter School and the school's employees; and

(r) a description of how the proposed Academy Charter School plans to meet the transportation and food service needs of its students; and

(s) a description of the facilities the Academy Charter School plans to use.

§ 12106. Process for Approving or Denying Charter School Petitions.

(a) Schedule. An eligible applicant seeking to establish an Academy Charter School *shall* submit a petition pursuant to § 12105 of this Chapter to the Council no later than the first Monday of August. However, it is recommended that an eligible applicant consult with the Council prior to submitting the petition. All petitions submitted no later than the first Monday in August *shall* be for the following school year. The deadline to submit a petition to establish a non-converted public school into an Academy Charter School or convert a public elementary school into an Academy Charter School for the School Year 2010-2011 *shall* be March 8, 2010. The deadline to submit a petition to establish an existing, accredited, non-converted private school into an Academy Charter School or convert a private Pre- Kindergarten-Three (PreK-3) through at least eighth (8th) grade school into an Academy Charter School for the School Year 2023-2024 *shall* be September 1, 2023 .

(b) Public Hearing. No later than forty-five (45) days after a petition to establish an Academy Charter School is filed with the

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Council, and no later than thirty (30) days for a petition to convert an existing school, the Council shall hold a public hearing on the petition to gather the information that is necessary for the Council to make the decision to approve or deny the petition.

(c) Notice. Ten (10) days before the scheduled time of the public hearing on a petition to establish an Academy Charter School, the Council shall:

(1) send a written notification of the public hearing to the eligible applicant;

(2) post notice of the public hearing at a place convenient to the public in the administrative office, cafeteria, and the classrooms of the public or private school which is subject to be converted into an Academy Charter School;

(3) post notice of the public hearing at a place convenient to the public in the administrative office, cafeteria and the classrooms of the public or private school which is school grade lower than the first (1st) school grade which is served by the public or private school which is subject to conversion; and

(4) post notice of the public hearing at a place convenient to the public in the Mayor's office which represents an area within the attendance area of the public or private school which is the subject of the conversion petition.

(d) The Council shall approve a petition to establish an Academy Charter School, if:

(1) the Council determines that the petition satisfies the requirements of this Chapter;

(2) the eligible applicant who filed the petition agrees to satisfy any condition or requirement, consistent with this Chapter and other applicable law that is set forth in writing by the Council as an amendment to the petition;

(3) the Council determines that the Academy Charter School has the ability to meet the educational objectives outlined in the petition; and

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(4) the approval will not cause the Council to exceed a limit under Subsection (h) of this Section.

(e) The Council shall approve and admit a new or converted Pre-K3 through at least eighth (8th) grade school whose curriculum is Project Based, utilizing a Critical Thinking method of learning resulting in measurable proficiency in the *CHamoru* language and history, music, physical fitness, and the performing arts.

(f) The Council shall approve or deny a petition to establish an Academy Charter School not later than sixty (60) days after the conclusion of the public hearing on the petition and not later than thirty (30) days for a petition to convert an existing school.

(g) Denial Explanation. Written notice of the Council's action shall be sent to the eligible applicant. If the petition is not approved, the reasons for the denial and suggested remedial measures, if any, shall be clearly stated in the notice sent by the Council to the eligible applicant. If the petition is not approved, the eligible applicant may amend the petition to address objections and any suggested remedial measures and resubmit the petition to the Council. The Council shall approve or disapprove the resubmitted petition within twenty (20) days after receiving it. If the petition is not approved, the eligible applicant may appeal the decision of the Council to the Appeals Board.

(h) The total number of Academy Charter Schools operating on Guam under this Chapter at any one (1) time *shall not* exceed seven (7). At least two (2) Academy Charter Schools *shall* be an elementary school; at least one (1) Academy Charter School *shall* be a middle school; at least one (1) Academy Charter School *shall* be a high school; and at least one (1) Academy Charter School *shall* be a school servicing elementary and middle school students. An Academy Charter School applicant *shall* submit a written request to the Superintendent or the Guam Education Board to determine whether an available or suitable facility exists within the Department before the applicant submits its application to the Council. If a response is not provided within thirty (30) days of receipt of the request, the applicant may submit its application without said determination to the Council.

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SOURCE: Subsection (a) amended by P.L. 30-091:1 (Feb. 8, 2010) amended by P.L. 35-029:2 (July 19, 2019). Subsections (a), (e) and (f) amended by P.L. 30-176:3,4,5, respectively, (July 16, 2010). Subsection (g) amended by P.L. 35-028:2 (July 19, 2019). Amended by P.L. 37-030:3 (July 25, 2023).

§ 12107. Duties and Powers, and other Requirements, of Charter Schools.

(a) An Academy Charter School shall comply with all of the terms and provisions of its Charter.

(b) An Academy Charter School shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race creed, color, gender, national origin, religion, ancestry or need for special education services.

(c) Each power conferred upon an Academy Charter School under this Chapter can only be used for the sole purpose of operating the Academy Charter School. An Academy Charter school shall have the following powers:

(1) to adopt a name and corporate seal, but only if the name selected includes the words “Academy Charter School”;

(2) to acquire real property for use as the Academy Charter School's facilities, from public or private sources, but Academy Charter Schools shall not have the power to acquire property by eminent domain;

(3) to receive and disburse funds for Academy Charter School purposes;

(4) to secure appropriate insurance and to make contracts and leases, including agreements to procure or purchase services, equipment, and supplies subject to Chapter 5, Title 5, Guam Code Annotated;

(5) to incur debt in reasonable anticipation of the receipt of funds from the general fund of the government of Guam or the receipt of Federal or private funds;

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(6) to solicit and accept any grants or gifts for the Academy Charter School's purposes, if the Academy Charter School:

(A) Does not accept any grants or gifts subject to any condition contrary to law or contrary to its Charter; and

(B) Maintains, for financial reporting purposes, separate accounts for grants or gifts;

(7) to be responsible for the Academy Charter School's operation, including preparation of a budget and personnel matters; and

(8) to sue and be sued in the Academy Charter School's own name.

(d) An Academy Charter School shall not charge an application fee and tuition.

(e) An Academy Charter School may impose reasonable fees or otherwise require payment, at rates established by the Trustees of the school, for any field trips or similar activities not funded in whole or part through appropriation by *I Liheslaturan Guåhan*.

(f) An Academy Charter School shall exercise control over its expenditures subject to Chapter 5, Title 5, Guam Code Annotated, and over administration, personnel, and instructional methods independent of the Guam Department of Education, within the limitations imposed in this Chapter.

(g) An Academy Charter School shall be exempt from Guam Department of Education policies, rules, regulations, and collective bargaining agreements, except as otherwise provided in the Academy's Charter or this Chapter.

(h) An Academy Charter School shall comply with all federal and Guam health and safety requirements applicable to public schools.

(i) An Academy Charter School shall be governed by the Trustees in a manner consistent with the Charter granted to the school and the provisions of this Chapter.

(j) No employee of the Department of Education shall be

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required to accept employment with, or be assigned to, an Academy Charter School.

(k) No student enrolled in a public school shall be required to attend an Academy Charter School:

(l) An Academy Charter School shall not levy taxes or issue bonds.

(m) An Academy Charter School seeking to revise its Charter shall prepare a petition for approval of the revision and file the petition with the Council. The provisions of § 12105 of this Chapter shall apply to such a petition in the same manner as such provisions apply to a petition to establish an Academy Charter School.

(n) An Academy Charter School *shall* submit an annual report no later than thirty (30) days after the end of the fiscal year to the Council, *I Liheslaturan Guåhan*, and *I Maga'hågan Guåhan*. The Academy Charter School shall permit the public to review any such report upon request. A report *shall* include the following data:

(1) a report on the extent to which the school is meeting its mission and goals as stated in the petition for the Academy Charter School;

(2) student performance on any district-wide assessments;

(3) grade advancement for students enrolled in the Academy Charter School;

(4) graduation rates, college admission test scores, and college admission rates, if applicable;

(5) types and amounts of parental involvement;

(6) official student enrollment;

(7) average daily attendance;

(8) annual financial audit and subsequent fiscal year annual financial audits, and a financial statement audited by the Public Auditor, pursuant to § 1908, Chapter 19, Title 1, Guam Code Annotated, under Subsection (z) of this Chapter.

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(9) a report on school staff indicating the qualifications and responsibilities of such staff; and

(10) a list of all donors and grantors that have contributed monetary or in-kind donations having a value equal to or exceeding Five Hundred Dollars (\$500) during the year that is the subject of the report.

(11) Data described in items (1) through (8) of this Subsection shall not identify the individuals to whom the data pertain.

(o) An Academy Charter School shall provide to the Department of Education student enrollment data.

(p) An Academy Charter School shall establish a formal complaint resolution process.

(q) An Academy Charter School shall provide a program of education, which shall include any grade or grades from kindergarten through grade twelve (12).

(r) [Repealed.]

(s) An Academy Charter School shall not be home based.

(t) [Repealed.]

(u) An Academy Charter School *shall* initiate the process for accreditation within the first one hundred twenty (120) days of opening and attain accreditation within six (6) years of opening.

(v) An Academy Charter School shall not hire a for-profit management company to operate the school.

(w) An Academy Charter School shall provide instruction each year for at least the same number of days required of the Department of Education.

(x) An Academy Charter School, and its incorporators, Trustees, officers, employees, and volunteers, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission:

(1) constitutes gross negligence;

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(2) constitutes an intentional tort; or

(3) is criminal in nature.

(y) Upon termination of the Charter, all assets of the Academy Charter School shall revert to the Department of Education.

(z) Pursuant to § 1908, Chapter 19, Title 1, Guam Code Annotated, the Public Auditor is authorized to supervise audits, or at the Public Auditor's discretion, exercise his or her authority to make the selection of the auditing firm or organization, and the scope of audit; and the audits are to be at the cost of the charter school, which said costs *shall* be included in its annual budget.

SOURCE: Subsection (n) amended by P.L. 31-233:XII:29 (Sept. 7, 2012), amended by P.L. 35-029:4 (July 19, 2019). Subsection (n)(8) amended by P.L. 35-029:4 (July 19, 2019). Subsection (c)(4) amended by P.L. 32-125:1 (Feb. 10, 2014). Subsection (f) amended by P.L. 32-125:2 (Feb. 10, 2014). Subsection (g) amended by P.L. 32-125:3 (Feb. 10, 2014). Subsection (u) amended by P.L. 35-029:4 (July 19, 2019). Subsection (z) added by P.L. 35-030:2 (July 19, 2019). Subsections (r) and (t) repealed by P.L. 37-030:4 (July 25, 2023).

2023 NOTE: Section 4 of P.L. 37-030:4 (July 25, 2023) states:

Section 4. §§ 12107(r) and (t) of Chapter 12, Title 17, Guam Code Annotated, are hereby repealed:

“§ 12107. Duties and Powers, and other Requirements, of Charter Schools.

(r) An Academy Charter School shall not be home based.”

It is unclear whether there was an intent to add new language to subsection (r). Prior to the repeal by P.L. 37-030:4 (July 25, 2023), subsection (r) stated: “An Academy Charter School shall be nonsectarian and shall not be affiliated with a sectarian school or religious institution.” Prior to the repeal by P.L. 37-030:4 (July 25, 2023), subsection (t) stated: “An Academy Charter School shall not be converted from any existing private or parochial school.”

§ 12108. Board of Trustees of a Charter School.

(a) There is established the Board of Trustees. The Trustees of an Academy Charter School *shall* be elected or selected pursuant to the Charter granted to the Academy Charter School. The Board of Trustees *shall* consist of not less than five (5) members and not more than nine (9) members. At least one (1)

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member *shall* be a parent or guardian of a student attending the Academy Charter School. At least one (1) member *shall* be from the general public with an accounting or finance background. The Principal of the Academy Charter School *shall* be a non-voting member. Employees of any Academy Charter School *shall* not serve as voting members on any Board of Trustees.

(b) In the case of the first Trustees of an Academy Charter School to be elected or selected after the date on which the school is granted a Charter, the election or selection of the members under subsection (a) of this Section shall occur on the earliest practicable date after classes at the school have commenced. Until such date, any other members who have been elected or selected shall serve as interim Trustees. Such an interim Board of Trustees may exercise all of the powers, and shall be subject to all of the duties, of a Board of Trustees. Converted existing school Trustees shall serve an initial term of three (3) years after the date on which the school is granted a Charter.

(c) The Trustees of an Academy Charter School shall be fiduciaries of the school and shall set overall policy for the school. The Trustees may make final decisions on matters related to the operation of the school, consistent with the Charter granted to the school, this Chapter, and other applicable law.

(d) Meetings held by the Board of Trustees shall be in compliance with the Open Government Law of Guam.

SOURCE: Added by P.L. 29-140:1 (Jan. 30, 2009). Subsection (a) amended by P.L. 35-029:5 (July 19, 2019). Subsection (b) amended by P.L. 37-030:5 (July 25, 2023).

§ 12109. Academy Charter Schools; Admission Requirements.

(a) An Academy Charter School shall enroll all students who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. An Academy Charter School shall give enrollment preference to students returning to the Academy Charter School in the second or any subsequent year of its operation and to siblings of students already enrolled in the Academy Charter School. If capacity is insufficient to enroll all students who submit a timely application, the Academy Charter School shall select students through an

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equitable selection process such as a lottery. A public school converted to an Academy Charter school shall give enrollment preference to students attending the public school prior to conversion and students who reside within the former attendance zone of that converted public school.

(b) Except as provided in subsection (c), an Academy Charter School shall not limit admission based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language or athletic ability.

(c) An Academy Charter School may limit admission to students within a given age group or grade level.

(d) An Academy Charter School may refuse to admit any student who has been expelled from another educational institution or who is in the process of being expelled from another educational institution.

(e) For schools preparing students for specific professions, admissions may be limited to students who meet Bona Fide Occupational Qualifications (BFOQ) selection criteria for the profession. the profession exists in an equivalent government position, the admissions criteria may be based on the government of Gum's employment selection criteria.

§ 12110. Employees.

(a) An employee of an Academy Charter School who transferred from the Department of Education shall be considered to be on three (3) years leave of absence from the Department of Education. The leave of absence shall commence on the initial date of employment at the Charter School. Upon request of the employee, the three (3) years leave of absence shall be renewed for up to two (2) additional one (1)-year periods, absent good cause.

(b) The time during which an employee is on a leave of absence shall be counted for service credit on the Department of Education's salary schedule.

(c) During the period of time that an employee is on a leave of absence from the Department of Education and is actively employed by the Charter School, the Academy Charter School as

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the employer shall continue the retirement or other benefits previously granted to the employee make applicable retirement contributions.

(d) A leave of absence shall not be considered a break in service with the Department of Education with which and employee was previously employed.

(e) An employee who is on leave of absence and actively teaching at an Academy Charter School and who submits a notice of intent to return to a public school in which the employee was employed immediately prior to employment in the Charter School shall be given employment preference by the Department of Education if:

(1) the employee's notice of intent to return is submitted to the Department of Education within three (3) years after ceasing employment with the Department of Education; and

(2) if the employee is a teacher, a position for which the teacher is certified or is qualified to become certified is available. If the employee is not a teacher, a position for which the employee is qualified is available.

(f) An employee who is on leave of absence and employed by an Academy Charter school and is discharged or terminated for just cause by the Academy Charter School may be considered discharged or terminated by the Department of Education.

§ 12111. Guam Academy Charter Schools Council; Membership; Terms; Compensation.

(a) There is established the Guam Academy Charter Schools Council. The Council *shall* consist of seven (7) voting members, and *shall* include:

(1) one (1) retired teacher;

(2) one (1) retired school administrator;

(3) two (2) members with accounting or finance background; and

(4) three (3) members from the general public.

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(b) Members shall be appointed by *I Maga'hågan Guåhan*, subject to confirmation by *I Liheslaturan Guåhan*. Members shall serve a term of three (3) years.

(c) The Council shall each year elect a chairman and other officers as it deems necessary among its membership.

(d) Members of the Council *shall* be paid Fifty Dollars (\$50) per meeting, not to exceed One Hundred Fifty Dollars (\$150) per month.

(e) Clerical and administrative support shall be provided by the Guam Certification Office.

(f) The Council shall utilize the Office of the Attorney General of Guam as its legal counsel, unless the Attorney General, in writing, authorizes the Council to utilize private counsel.

(g) Four (4) members *shall* constitute a quorum.

(h) No member of the Council *shall* be an employee of a Guam Academy Charter School, to include any member sitting on the Board of Trustees.

SOURCE: Subsection (e) amended by P.L. 30-176:6 (July 16, 2010). Subsection (f) added by P.L. 30-176:7 (July 16, 2010). Amended by P.L. 31-233:XII:30 (Sept. 7, 2012). Subsections (a), (b), and (d) amended by P.L. 35-029:6 (July 19, 2019). Subsections (g) and (h) added by P.L. 35-029:6 (July 19, 2019).

§ 12112. Powers and Duties of the Guam Academy Charter School Council.

(a) The Council:

(1) may grant Academy School Charter status to qualifying applicants pursuant to this Chapter;

(2) shall monitor the operations of each Academy Charter School;

(3) shall monitor that each such Academy Charter School complies with applicable laws and the provisions of the charter granted to such school;

(4) shall monitor the progress of each school in meeting student academic achievement expectations specified in the

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charter granted to such Academy Charter School; and

(5) shall monitor that each Academy Charter School complies with the annual reporting requirements, including, submission of the audited financial statement.

(b) The Council may require an Academy Charter School to produce any book, record, paper, or document, if the Council determines that such production is necessary for the Council to carry out its functions under this Chapter.

(c) The Council shall charge an eligible applicant or an Academy Charter School a non-refundable application or renewal fee of Five Hundred Dollars (\$500). All such application or renewal fees shall be deposited to the Guam Academy Charter School Fund.

(d) The Council shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission:

- (1) constitutes gross negligence;
- (2) constitutes an intentional tort; or
- (3) is criminal in nature.

(e) Meetings held by the Council shall be in compliance with the Open Government Law of Guam.

(f) The Council shall promulgate Administrative Rules and Regulations consistent with the provisions of Title 5, GCA, Chapter 9. Such Rules and Regulations may be revised as needed consistent with the provisions of Title 5, GCA, Chapter 9.

SOURCE: Subsections (a)(3), (a)(5) amended by P.L. 30-176:8, 9, respectively, (July 16, 2010). Subsection (f) added by P.L. 30-176:10 (July 16, 2010).

§ 12113. Academy Charter School Initial Term and Renewal.

(a) A Charter granted to an Academy Charter School *shall* remain in force for a six (6) year period, unless revoked as authorized in § 12114 of this Chapter.

(b) A Charter may be renewed an unlimited number of times, each time for a six (6) year period.

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(c) The Council shall review a Charter at least once every year to determine whether the Charter should be revoked for the reasons described § 12115 of this Chapter in accordance with the procedures for revocation established under § 12115 of this Chapter.

(d) In the case of an Academy Charter School that desires to renew its charter, the Trustees of the school shall file an application to renew the charter with the Council not later than one hundred twenty (120) days nor earlier than three hundred sixty-five (365) days before the expiration of the charter. The application shall contain the following:

(1) a report on the progress of the Academy Charter School in achieving the goals, student academic achievement expectations, and other terms of the approved Charter; and

(2) all audited financial statements for the Academy Charter School for the preceding four (4) years, if applicable.

(e) The Council shall approve an application to renew the Charter that is filed in accordance with subsection (b) of this Section, except that the Council shall not approve such application if the Council determines that:

(1) the Academy Charter School committed a material violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in its Charter, including violations relating to the education of children with disabilities; or

(2) the Academy Charter School failed to meet the goals and student academic achievement expectations set forth in its Charter.

(3) the Academy Charter School failed to attain a minimum of candidacy status towards its accreditation.

(f) In an application to renew a Charter filed by the Trustees in accordance with this Chapter, the Council shall provide written notice to the Trustees of the public hearing on the application not later than fifteen (15) days after the date on which the Council received the application.

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(g) Not later than thirty (30) days after the date on which the Trustees receive a notice under subsection (e) of this Section, the Trustees may request, in writing, a public hearing on the application before the Council.

(h) Upon receiving a timely written request for a public hearing under subsection (f) of this Section, the Council shall set a date and time for the public hearing and shall provide notice of the date and time, as well as the procedures to be followed at the public hearing, to the Trustees.

(i) A public hearing under this subsection shall take place not later than thirty (30) days after the Council receives a timely written request for the public hearing under subsection (f) of this Section.

(j) The Council shall render a final decision, in writing, on an application to renew a Charter not later than thirty (30) days after the date on which the public hearing is concluded.

(k) A decision not to renew the Charter of an Academy Charter School may be appealed to the Appeals Board as described by § 12115 of this Chapter.

SOURCE: Subsections (a), (k) amended by P.L. 30-176:11,12, respectively, (July 16, 2010). Subsections (a) amended by P.L. 35-030:3 (July 19, 2019). Subsection (b) amended by P.L. 35-030:4 (July 19, 2019). Subsection (e)(3) added by P.L. 35-030:7 (July 19, 2019).

§ 12114. Basis and Procedures for Academy Charter School Probation or Revocation.

(a) The Council *shall* place an Academy Charter School on probation or revoke the Academy Charter School's Charter if the Council determines that the Academy Charter School:

(1) committed a violation of applicable law or material violation of the conditions, terms, standards, or procedures set forth in the Charter, including violations relating to the education of children with disabilities;

(2) has failed to meet the goals and student academic achievement expectations set forth in the Charter;

(3) has engaged in a pattern of non-adherence to generally accepted accounting principles;

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(4) has engaged in a pattern of fiscal mismanagement;
or

(5) is no longer economically viable.

(6) has failed to maintain or attain a minimum of candidacy accreditation.

(b) Procedures for consideration of probation or revocation:

(1) The Council shall provide to the Trustees a written notice stating the reasons for the probation of the Academy Charter School or the revocation of the Academy Charter School's Charter. The notice shall inform the Trustees of the right to have a public hearing.

(2) Not later than fifteen (15) days after the date on which the Trustees receives a notice under (b)(1) of this Section, the Trustees may request, in writing, a public hearing on the probation of the Charter School or the revocation of the Academy Charter School's Charter before the Council.

(3) Upon receiving a timely written request for a public hearing under this Section, the Council shall set a date and time for the public hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the public hearing, to the Trustees.

(4) A public hearing under this Section shall take place not later than thirty (30) days upon written request for a public hearing under this subsection.

(c) The Council shall render a final decision no later than thirty (30) days after the conclusion of the public hearing. The vote of two-thirds (2/3) of all the members of the Council shall be required to revoke the Charter.

(d) The Council *may* place an Academy Charter School on probation, rather than revoke its Charter, in order to allow for the implementation of a remedial plan approved by the Council. If after *no more than* one hundred eighty (180) days, or such longer period as the Council may specify, said plan is unsuccessful in remedying the problem or alleviating the causes of the probation,

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the Council *shall* revoke the Charter.

(e) If the Council revokes a charter granted to an Academy Charter School, the Department of Education shall manage the Academy Charter School directly until alternative arrangements can be made for students at the Academy Charter School.

(f) If the Academy Charter School's Charter is revoked, the Trustees may appeal the decision of the Council to the Appeals Board.

SOURCE: Subsection (f) amended by P.L. 30-176:13 (July 16, 2010). Subsection (a) amended by P.L. 35-030:5 (July 19, 2019). Subsection (a)(6) added by P.L. 35-030:8 (July 19, 2019). Subsection (d) amended by P.L. 35-030:6 (July 19, 2019).

§ 12115. Appeal Process.

(a) The Appeals Board, upon receipt of a notice of appeal, shall review the decision of the Council.

(b) An eligible applicant or the Trustees of an Academy Charter School that wishes to appeal a decision of the Council concerning the denial, nonrenewal or revocation of an Academy Charter School shall provide the Appeals Board with a notice of appeal within thirty (30) days after the Council's decision. The eligible applicant or Trustees of the Charter School bringing the appeal shall limit the grounds of the appeal to the grounds for denial, nonrenewal or revocation specified by the Council. The notice shall include a brief statement of the reasons the eligible applicant or Trustees contends the Council's decision was in error. Within thirty (30) days after receipt of the notice of appeal, the Appeals Board shall hold a public hearing that may be held in the school district in which the proposed Academy Charter School has applied for or at the current location of the Academy Charter School. The Appeals Board shall review the decision of the Council and make its findings within ten (10) days after the completion of the public hearing. If the Appeals Board finds that the Council's decision was contrary to the best interests of the students, or community, the Appeals Board shall reverse the decision of the Council. The decision of the Appeals Board shall be final and not subject to appeal.

SOURCE: Amended by P.L. 30-176:14 (July 16, 2010).

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§ 12116. Funding.

(a) The Trustees, in consultation with teachers and administrators, shall determine the school's curriculum and develop the school's annual budget. The Trustees of each Charter School shall submit to the Council a copy of its budget for each fiscal year.

(b) The Council *shall* submit, on a timely basis, the budgets of Academy Charter Schools and their respective enrollment data, to include the origin of each student, to *I Liheslaturan Guåhan* by June 15 of each year.

(c) The amount approved by *I Liheslaturan Guåhan* for the operation of each Academy Charter School *shall* be available for expenditure by the Trustees of such Charter School for any lawful purpose. In no case *shall* an Academy Charter School expend or incur obligations in excess of its approved budget; provided, however, that an Academy Charter School *shall* be authorized to spend federal grants and other funds received not accounted for in said Charter School's approved budget. The government of Guam will not subsidize any indebtedness accrued by the Charter Schools if the approved budget by the Charter School's Board of Trustees exceeds the appropriation amount set forth by *I Liheslatura* (the Legislature).

(d) Notwithstanding any other provision of this Chapter, no capital improvement funds *shall* be awarded to a non-converted public school for the purpose of constructing said school, with the exception of constructing temporary structures that can be removed and reverted to the government of Guam, with the approval of the Council.

(e) Academy Charter Schools *shall* be funded as follows: the Charter School *shall* receive a tuition amount from the General Fund equal to the number of students enrolled at the Charter School for the upcoming school year, multiplied by the per pupil cost. The Department of Administration is hereby authorized and directed to deposit said Charter School approved amount from the General Fund appropriation to the Guam Academy Charter School Fund.

(f) All Fiscal Year 2019 funds appropriated to the Charter

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School *may* be used to pay prior year obligations.

SOURCE: Subsection (b) amended by P.L. 30-176:15 (July 16, 2010).
Subsections (b), (c), (d), (e) and (f) amended by P.L. 35-029:7 (July 19, 2019).

§ 12117. Transportation.

Students attending an Academy Charter School shall be provided transportation to the Charter School by the Department of Public Works on the same terms and conditions as transportation is provided to children attending other public schools. In providing such transportation, the Department of Public Works shall accommodate the particular school day and school year of the Charter School; provided, however, that in the event that the Department of Public Works limits transportation for public school students, the Department of Public Works shall not be required to provide transportation to any Academy Charter School beyond said limitations.

§ 12118. Academic Credits; Transfer.

If a student who was previously enrolled in an Academy Charter School enrolls in a public school, the public school shall accept credits earned by the student in courses or instructional programs at the Academy Charter School in a uniform and consistent manner and according to the same criteria that are used to accept academic credits from other public schools. This reciprocity of acceptance for transfers of academic credits shall apply to students previously enrolled in a public school who enroll in an Academy Charter School, and students previously enrolled in an Academy Charter School who enroll in another Academy Charter School.

SOURCE: Amended by P.L. 30-176:16 (July 16, 2010).

§ 12119. Guam Academy Charter School Fund.

There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the “Guam Academy Charter School Fund (Fund).” The Fund *shall not* be commingled with any other fund, and *shall* be kept in a separate bank account and administered by the Department of Administration for the operations of Guam Academy Charter Schools. The Guam Academy Charter School Council *shall* make

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quarterly reports of expenditures from the Fund and transmit said reports to *I Liheslaturan Guåhan* and the Office of Public Accountability.

SOURCE: Added by P.L. 29-140:1 (Jan. 30, 2009). Amended by P.L. 35-029:8 (July 19, 2019).

COMMENT: Reference to Office of Public Auditor changed to Office of Public Accountability pursuant to P.L. 30-027:2 (June 16, 2009).

§ 12120. [Untitled Section].

[Repealed.]

SOURCE: Added by P.L. 29-140:1 (Jan. 30, 2009). Repealed by P.L. 30-176:17 (July 16, 2010).

2023 NOTE: Prior to its repeal, this untitled provision stated, in its entirety: “All provisions of this Act *shall* expire on July 1, 2018, unless reenacted by *I Liheslaturan Guåhan* prior to expiration.”

§ 12121. [Untitled Section].

The Guam Academy Charter Schools Council shall recommend changes to this Act to *I Liheslatura* within thirty (30) days of its first meeting at which a quorum is present.
